

# NEW JERSEY BOARD OF PUBLIC UTILITIES

## PROPOSED READOPTION OF N.J.A.C. 14:29

### ENERGY EMERGENCY RULES

**Updated 5 December 2005**

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**PUBLIC UTILITIES**  
**BOARD OF PUBLIC UTILITIES**  
**Energy Emergency**

**Proposed Readoption with Amendments: N.J.A.C. 14:29**

Authorized By:	Board of Public Utilities, Jeanne M. Fox, President, and Frederick F. Butler, Connie O. Hughes and Jack Alter, Commissioners.
Authority:	N.J.S.A. 52:27F-16 through 18, and 21 and 24.
Calendar Reference:	See Summary below for explanation of exception to calendar requirement.
BPU Docket Number:	EX 05080740
Proposal Number:	PRN 2005-434

Submit comments by January 6, 2006 to:

New Jersey Board of Public Utilities  
Kristi Izzo, Secretary  
ATTN: BPU Docket Number: EX 05080740  
Two Gateway Center  
Newark, New Jersey 07102

The agency proposal follows:

**Summary**

The Board of Public Utilities (Board) is proposing to readopt with amendments its energy emergency rules, N.J.A.C. 14:29. The rules were originally promulgated in response to energy shortages in 1977, were last readopted in 2001, and were last amended in 2004. In accordance with N.J.S.A. 52:14B-5.1(c), the rules will expire on August 7, 2006 if not readopted. In light of the uncertainties of the energy market and the sharp increases in energy prices over the last few years, the Board has reviewed the rules and identified

updates and revisions necessary to ensure that New Jersey is prepared for a possible energy emergency.

When there is a serious shortage of one or more types of energy, the Governor is authorized under N.J.S.A. 52:27F-18 to declare an energy emergency, and to take steps necessary to address the emergency. The existing rules at N.J.A.C. 14:29 set forth the measures to be used by the Board during an energy emergency to encourage energy conservation, restrict energy use, and distribute available energy to best ensure the safety and welfare of New Jersey citizens. In addition, a few provisions enable the Board to act prior to a declaration of energy emergency, by imposing requirements for reporting, public information campaigns and emergency planning.

The two amendments proposed herein decrease the amount of a required petroleum set aside, and eliminate the requirement that, in the event of load interruptions, electric utilities must cut off electricity to residential customers last. These changes are discussed in detail below in the section-by-section description of the proposed readoption with amendments.

As the Board has provided a 60-day comment period on this proposed readoption with amendments, they are exempt from the rulemaking calendar requirements set forth at N.J.A.C. 1:30-3.1 and 3.2, pursuant to N.J.A.C. 1:30-3.3(a)5.

A section-by-section description of the proposed readoption with amendments follows:

### **Subchapter 1. General Provisions**

#### **N.J.A.C. 14:29-1.1 Scope**

N.J.A.C. 14:29-1.1, which is proposed for readoption without change, addresses the timing of the implementation of this chapter and the basis on which the Board may make the finding required for an emergency declaration. Most of the chapter does not come into play until the Governor has declared a state of energy emergency, but some provisions (for energy planning, reporting, and public information programs) may be implemented prior to such a declaration

#### **N.J.A.C. 14:29-1.2 Definitions**

The definitions remain unaltered from those set forth in existing N.J.A.C. 14:29-1.2.

#### **N.J.A.C. 14:29-1.3 Exemptions**

N.J.A.C. 14:29-1.3, which is proposed for readoption without change, provides for exemptions to the rules, to be issued by the Division of Energy within the Board of Public Utilities. The section sets out specific standards for granting an exemption, including standards involving extraordinary hardship, and public welfare.

#### **N.J.A.C. 14:29-1.4 Modification of this chapter during emergency**

N.J.A.C. 14:29-1.4, which is proposed for readoption without change, authorizes the Board to modify the requirements in these rules as necessary to address the energy emergency.

### **N.J.A.C. 14:29-1.5 Delegation to Board President**

N.J.A.C. 14:29-1.5, which is proposed for readoption without change, authorizes the Board President to act on behalf of the Board in certain emergency situations where a quorum cannot be convened.

### **N.J.A.C. 14:29-1.6 Website**

This section, which is proposed for readoption without change, alerts the public to the website maintained by the Board at [www.bpu.state.nj.us](http://www.bpu.state.nj.us), and directs people to the website for information during an energy emergency.

## **Subchapter 2. End-Use Energy Reduction**

### **N.J.A.C. 14:29-2.1 Scope**

This section, which is proposed for readoption without change, specifies that the subchapter applies to energy end-users and energy sellers.

### **N.J.A.C. 14:29-2.2 Public appeal**

This section, which is proposed for readoption without change, authorizes the Board to make or require electric and gas utilities to make public appeals for energy conservation.

### **N.J.A.C. 14:29-2.3 Energy reduction measures**

N.J.A.C. 14:29-2.3, which is proposed for readoption without change, sets forth energy reduction measures that the Board may require of energy end-users in the event of an energy emergency. The measures are not listed in priority order, and may be selected from as needed to address the conditions in effect at a particular time.

### **N.J.A.C. 14:29-2.4 Hour limitations**

N.J.A.C. 14:29-2.4, which is proposed for readoption without change, authorizes the Board to restrict the hours of operation of industrial and commercial facilities.

### **N.J.A.C. 14:29-2.5 Exemptions from end-use energy reduction measures**

N.J.A.C. 14:29-2.5, which is proposed for readoption without change, exempts hospital and medical care facilities, and persons who depend on life support, from end-use energy reduction measures, and electric sales for resale under Federal Energy Regulatory Commission jurisdiction. All other facilities must apply for an exemption on the basis of extraordinary hardship or public welfare under N.J.A.C. 14:29-1.3.

## **Subchapter 3. Natural Gas**

### **N.J.A.C. 14:29-3.1 Scope, interruptible customers**

This section, which is proposed for readoption without change, specifies the utilities to which the subchapter applies. In addition, this section prohibits a natural gas utility from reducing or discontinuing service to interruptible customers for economic reasons, if this

would cause the customer to switch to a petroleum fuel, unless there is a shortage of both natural gas and petroleum.

#### **N.J.A.C. 14:29-3.2 Priority plan for mandatory curtailment**

N.J.A.C. 14:29-3.2, which is proposed for readoption without change, provides for the Board to order mandatory reductions and suspensions of certain types of natural gas services to commercial and industrial customers. The provision sets forth a list, in priority order, of steps that can be taken in an energy emergency. The steps progress from reductions of gas service, through suspension of various types of gas service, to complete suspension of all gas service to industrial and commercial customers.

#### **N.J.A.C. 14:29-3.3 Inter-gas utility allocations**

N.J.A.C. 14:29-3.3, which is proposed for readoption without change, authorizes the Board to order movement of natural gas from one utility to another if necessary to preserve residential and commercial service.

#### **N.J.A.C. 14:29-3.4 Residential curtailment**

N.J.A.C. 14:29-3.4, which is proposed for readoption without change, authorizes natural gas suppliers to reduce or suspend residential gas service with approval from the Board, or without such approval in urgent cases. A utility that reduces or discontinues residential service without prior approval must notify the Board within four hours after the reduction or discontinuance. The utility must notify customers at least two hours prior to the reduction or elimination of service, if possible.

### **Subchapter 4. Electric**

#### **N.J.A.C. 14:29-4.1 Scope, load interruption plan**

This section specifies the utilities to which the subchapter applies and requires electric utilities to annually file a load interruption plan. In times of energy emergency, an electric public utility may need to interrupt some customers' service in order to protect the distribution system. The load interruption plan sets forth the order in which various types of customers will be disconnected from service. A proposed amendment eliminates the current requirement that load interruption plans provide for residential customers to be the last to have service interrupted. This provision has been found unworkable as a result of the design constraints upon electric delivery systems and is therefore proposed to be removed. In addition, sometimes it is necessary to interrupt service to residential customers in order to ensure continuation of service that is necessary for public safety (for example, hospitals, traffic lights, public transit). Additional detail is proposed regarding the required contents of the plan, including a minimum wattage of service interrupted, details regarding the circuits and locations of planned interruptions, and prohibitions on interruptions of service to hospitals, or to a single customer for more than three consecutive hours.

### **N.J.A.C. 14:29-4.2 Programs to reduce energy consumption**

N.J.A.C. 14:29-4.2, which is proposed for readoption without change, authorizes electric utilities to implement load interruptions and other departures from normal operations if necessary and as required by the Board.

### **N.J.A.C. Subchapter 5. Petroleum Products**

#### **14:29-5.1 Required set aside of regulated petroleum products**

N.J.A.C. 14:29-5.1 describes the "set aside" that certain suppliers of regulated petroleum products are required to keep for emergency purposes during an energy emergency. The section specifies that the set aside shall be calculated based not on a percentage of available supplies but on a percentage of the amount of the regulated petroleum product sold by that supplier in the same month of the previous year. A proposed amendment decreases the amount that must be set aside from five percent of the amount sold in the previous year to three percent. This decrease will minimize the chance that a set aside could exacerbate already existing shortages, while still ensuring that the State has the resources necessary to respond adequately during an energy emergency. Finally, this section requires each prime supplier to notify the Board each month of the amount of its set aside, and allows a prime supplier to release any portion of the monthly set aside that has not been used by the 27<sup>th</sup> of the month. The section also provides that the Board may modify the amount of the set aside if necessary, upon two days notice to prime suppliers.

#### **N.J.A.C. 14:29-5.2 Redirection of petroleum set aside**

This section, which is proposed for readoption without change, authorizes the Board to order prime suppliers to redirect their set aside to a designated end user.

#### **N.J.A.C. 14:29-5.3 Prime suppliers – reporting, non-discrimination**

This section, which is proposed for readoption without change, requires designation by prime suppliers of a contact person for energy emergency purposes and daily reporting and set forth content and timing requirements. This section also prohibits discrimination by prime suppliers against non wholly owned affiliates, and requires approval of any changes in distribution.

#### **N.J.A.C. 14:29-5.4 Interruptible dual-fuel (natural gas and petroleum) customers**

N.J.A.C. 14:29-5.4, which is proposed for readoption without change, prohibits a natural gas utility from reducing or discontinuing service to interruptible customers for economic reasons, if this would cause the customer to switch to a petroleum fuel, unless there is a shortage of both natural gas and petroleum.

## **Subchapter 6. Regulation and Control of Sale of Motor Fuel**

### **N.J.A.C. 14:29-6.1 Scope**

N.J.A.C. 14:29-6.1, which is proposed for readoption without change, authorizes restrictions on the sale of motor fuel.

### **N.J.A.C. 14:29-6.2 Days of access to retail dealers – odd/even measure**

N.J.A.C. 14:29-6.2, which is proposed for readoption without change, provides for restrictions of motor fuel sales for passenger automobiles. Motor fuel may be sold for a vehicle with an odd numbered license plate only on odd-numbered days of the month, and vice versa. This section also applies the scheme to vehicles from other jurisdictions.

### **N.J.A.C. 14:29-6.3 Quantity of motor fuel**

This section, which is proposed for readoption without change, authorizes the Board to set minimum or maximum amounts of motor fuel that may be sold during an energy emergency.

### **N.J.A.C. 14:29-6.4 Methods for notifying public**

This section requires retail fuel dealers to indicate to the public when fuel is available, not available, or available in limited amounts. A retail dealer must indicate the last vehicle that will be served 15 minutes prior to closing.

### **N.J.A.C. 14:29-6.5 Exemptions from odd/even limits; self-implementing**

N.J.A.C. 14:29-6.5, which is proposed for readoption without change, provides for self-implementing exemptions to the odd/even motor fuel restrictions, including an exemption for Federal vehicles, and vehicles owned by the State, a county or municipality.

### **N.J.A.C. 14:29-6.6 Exemptions from odd/even limits; by application**

N.J.A.C. 14:29-6.6, which is proposed for readoption without change, provides exemptions for the use of a car for work in the medical and health care fields, for commuter van pools, and for a vehicle used in a manner that benefits the community and for which compliance with the odd/even fuel restrictions will interfere with this benefit. Various provisions in this section specify that the exemption applies to the vehicle, not the person; that the exemption expires upon the end of the energy emergency; and that private vehicles owned by officials of local governments are not eligible for this type of exemption.

### **N.J.A.C. 14:29-6.7. Truck stops**

N.J.A.C. 14:29-6.7, which is proposed for readoption without change, authorizes certain truck stops to restrict fuel sales to trucks only under certain conditions.

### **N.J.A.C. 14:29-6.8 Police authority to waive regulations in cases of emergency**

This section, which is proposed for readoption without change, authorizes the police to waive the restrictions on sales of motor fuel in cases of bona fide emergency.

#### **N.J.A.C. 14:29-6.9 Sale to emergency vehicles on demand**

This section, which is proposed for readoption without change, requires a retail dealer to sell motor fuel on demand to an authorized emergency vehicle.

#### **N.J.A.C. 14:29-6.10 Pre-emption of local law**

This section, which is proposed for readoption without change, provides that this subchapter pre-empts local laws.

#### **N.J.A.C. 14:29-6.11 Interference with compliance**

This section, which is proposed for readoption without change, prohibits interference with a retail dealer's compliance with the rules, and prohibits misrepresentation of a vehicle in order to evade the rules.

#### **N.J.A.C. 14:29-6.12 Preferred customers; sale on first-come, first-served basis**

This section, which is proposed for readoption without change, prohibits preferential treatment to certain customers by retail dealers.

#### **N.J.A.C. 14:29-6.13 Sale of motor fuel in containers**

This section, which is proposed for readoption without change, prohibits the sale of motor fuel in containers except for farm or commercial purposes.

#### **Subchapter 7 is reserved**

#### **Social Impact**

The proposed readoption with amendments will have a positive social impact, in that it will continue and improve a program enabling the State to be prepared to deal with an energy emergency. The proposed amendment to the load interruption plan provisions will ensure that, in the event of an energy emergency, electric utilities can maintain service as long as possible to customers that are essential to public health and safety. The proposed reduction of the required set aside will permit the energy market to respond more quickly and effectively to energy shortages by allocating more fuel according to the laws of supply and demand.

#### **Economic Impact**

The proposed readoption with amendments will have a positive economic impact, in that it will help the Board manage energy supplies in an energy emergency. This will help minimize energy panic and other possible financially damaging practices like hoarding of energy. The proposed deletion of the requirement that load interruption plans call for shutoff of residential customers last will not be likely to have an economic impact, because it removes a requirement that was not technologically feasible. The proposed decrease in the required "set aside" of regulated petroleum products under N.J.A.C. 14:29-5.1 will likely have little economic impact on prime suppliers of regulated petroleum products. However, this decrease in set aside will permit the market to respond more effectively during an energy emergency. This is because the economic impact of the percentage



decrease will be offset by the provision allowing prime suppliers to release the remaining unused portion of their set aside on the 27<sup>th</sup> day of each month.

### **Federal Standards Statement**

Executive Order No. 27(1994) and P.L. 1995, c.65 (N.J.S.A. 52:14B-22 through 24) require State agencies, which adopt State rules that exceed any Federal requirements, to include in the rulemaking document a comparison with Federal law. While comparable Federal law is found at 42 U.S.C. §§8511 et seq., the proposed readoption with amendments does not contain standards or requirements that exceed those Federal requirements. The Federal law requires the President to set Federal and State energy conservation targets in times of energy emergency. The State is then required to submit an energy conservation plan describing how the targets will be met. The Federal law also encourages the States to submit energy conservation plans in advance, in order to be prepared in the event of an energy emergency. The rules being readopted and amended herein are such a plan.

### **Jobs Impact**

The Board does not anticipate that the proposed readoption with amendments will have a significant impact on employment in New Jersey. Load interruption plans may temporarily affect the operation of some businesses, but are not likely to be a major influence on employment in the long term. If there is a short term impact on jobs, it would be positive because the proposed amendment would likely allow more businesses to continue operating during an energy emergency. The reduction in the set aside is not likely to have an impact on jobs because the set aside affects only a small percentage of regulated petroleum products available for sale in local markets.

### **Agriculture Industry Impact**

The Board anticipates that the proposed readoption with amendments will have no impact or a very minimal one upon the agriculture industry. The interruption plan requirement to disconnect residential customers last would likely have had no impact on the agriculture industry even had it been implemented. The reduction of the required set aside might increase or decrease the availability of a given petroleum product to some participants in the agriculture industry. However, any impact would almost certainly be very limited and temporary.

### **Regulatory Flexibility Analysis**

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Board has determined that the amendments proposed herein will impose additional reporting, recordkeeping or other compliance requirements on any small businesses. A small business, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is a business that has fewer than 100 employees.

These rules will impose requirements on small businesses, particularly on retailers of motor fuels (see N.J.A.C. 14:29-6). These requirements relate to the quantities and manner in which motor fuels are sold. No capital cost or impact on businesses should be incurred or

required in order to comply. The impact on businesses would be felt only during a period of declared energy emergency.

The proposed change to the load interruption plan requirements may help small businesses continue to operate in an energy emergency. The proposed decrease in the required petroleum set aside will not affect small businesses, because the set aside is required only of prime suppliers, none of which are small businesses. It is unlikely that the proposed amendments will require small businesses to hire consultants or other professionals to assist them in complying with these rules. Most of the provisions, including the proposed amendments, require simple actions to reduce energy consumption, rather than recordkeeping or submittal of information to the Board. The provisions that do require submittal of information are those relating to an application for an exemption from the rule requirements. However, the information required to apply for an exemption is readily available and the exemption applications would not require a business to hire professionals to assist. See the Economic Impact rule. Because of the option to apply for an exemption, and the fact that these rules are of critical importance in managing a potential energy emergency, no special provisions are proposed for small business.

### **Smart Growth Impact**

The Board anticipates that the proposed readoption with amendments will have no impact on either the achievement of smart growth or the implementation of the State Development and Redevelopment Plan. The State Plan is intended to "provide a coordinated, integrated and comprehensive plan for the growth, development, renewal and conservation of the State and its regions" and to "identify areas for growth, agriculture, open space conservation and other appropriate designations." N.J.S.A. 52:18A-199a. Smart growth is based on the concepts of focusing new growth into redevelopment of older urban and suburban areas, protecting existing open space, conserving natural resources, increasing transportation options and transit availability, reducing automobile traffic and dependency, stabilizing property taxes, and providing affordable housing." While an energy shortage may affect the location of future development, the proposed readoption with amendments itself does not, and therefore will not impact smart growth or the State Plan.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:29. **Full text** of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### **14:29-4.1 Scope; load interruption plan**

(a) (No change.)

(b) Each electric utility shall file with the Board a load interruption plan, which details how the utility will implement rotating interruptions of service if [necessary. If interruption is necessary, residential customers shall be the last to have service interrupted.] requested to do so by PJM or another system operator. This plan shall meet the following requirements:

1. The service interrupted shall total at least 10 percent (in megawatts) of the utility's prior year peak load;
2. The plan shall not call for interruption of service to hospitals;
3. The plan shall not call for interruption of service to any one customer for more than three consecutive hours; and
4. The plan shall identify all of the following:
  - i. The circuits to be interrupted;
  - ii. The estimated peak load (in megawatts) of each circuit to be interrupted; and
  - iii. The municipalities in which the interrupted circuits are located.

(c) The electric public utility shall update the plan submitted under (b) above annually, by March 1st of each year.

#### **14:29-5.1 Required set aside of regulated petroleum products**

(a) (No change.)

(b) The amount of each prime supplier's set aside for a particular regulated petroleum product for a particular upcoming month shall be [five] three percent of the amount of that product sold in New Jersey by that prime supplier during the same month of the previous year, as reported to the U.S. Department of Energy's Energy Information Agency on Form EIA-782C, Monthly Report of Prime Supplier Petroleum Product Sold for Consumption.

(c) - (e) (No change.)